

Article - Environment

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§15–608.

(a) Nothing in this subtitle shall be construed as affecting the right of any person to enforce or protect that person's interest in water resources affected by deep mining.

(b) The operator of a deep mine shall replace the water supply of an owner of interest in real property who obtains all or part of the owner's supply of water for domestic, agricultural, industrial, or other legitimate use from an underground or surface source where the supply has been affected by contamination, diminution, or interruption proximately resulting from deep mining operations.

(c) (1) If the Department determines that the water supply has been affected by deep mining operations, the Department shall notify the operator of its determination and shall establish a reasonable schedule for the operator to replace the water supply.

(2) If the operator fails to comply with the schedule for replacing the affected water supply established in the Department's notification under paragraph (1) of this subsection, the Department shall order the operator to replace the affected water supply.

(3) On request from the operator, the Department shall use funds from the Deep Mining Fund to replace the affected water supply, if the operator agrees to reimburse the Fund for money expended by the Department as provided in subsection (f) of this section.

(d) (1) On request from the owner of the affected water supply, the Department may use funds from the Deep Mining Fund to replace the affected water supply if the operator fails to comply with either the schedule established in the Department's notification or the Department's order under subsection (c) of this section.

(2) These funds may be used to replace a water supply only after the owner of the affected water supply agrees to reimburse the Fund for moneys expended by the Department as provided in subsection (f) of this section.

(e) (1) If the Department determines that the water supply has been affected by deep mining operations after bonds on the operations have been forfeited, the Department may use funds received from forfeiture on bonds, or funds from the

Deep Mining Fund where funds received from forfeiture on bonds are not sufficient, to replace the water supply.

(2) If the Department determines that the water supply has been affected by deep mining operations after all bonds on the operation have been fully released, instead of requiring the operator to replace the water supply under subsection (c) of this section, the Department shall use funds from the Deep Mining Fund to replace the water supply. The use of these funds may not be construed to extend any permit where bonds have been fully released.

(f) (1) The operator shall reimburse the Fund for all moneys expended by the Department to replace the water supply if:

(i) After final administrative and judicial review of the Department's determination or order issued under subsection (c) of this section, it is determined that the water supply contamination, diminution, or interruption did proximately result from the operator's deep mining operation; and

(ii) The Department has expended moneys from the Deep Mining Fund to replace the water supply.

(2) The property owner shall reimburse the Fund for all moneys expended by the Department to replace the water supply if:

(i) After final administrative and judicial review of the Department's determination or order issued under subsection (c) of this section, it is determined that the water supply contamination, diminution, or interruption did not proximately result from the operator's deep mining operation; and

(ii) The Department has expended moneys from the Fund to replace the water supply.

(3) (i) The operator may request reimbursement from the Department for the actual direct costs incurred by the operator to replace the water supply if:

1. After final administrative and judicial review of the Department's determination or order issued under subsection (c) of this section, it is determined that the water supply contamination, diminution, or interruption did not proximately result from the operator's deep mining operation; and

2. The operator has replaced the water supply.

(ii) The request shall be in writing, signed by the operator, and include a statement of the actual direct costs incurred by the operator to replace the water supply and a statement that the operator is not eligible for reimbursement for all or any part of the costs for which reimbursement is requested from any other source.

(iii) The Department shall reimburse the operator for the operator's eligible costs to replace the water supply from the Deep Mining Fund.

(g) (1) The operator shall be liable for any expenditures from the Deep Mining Fund in excess of funds received from forfeiture on bonds required to replace the water supply under subsection (e) of this section.

(2) The Department may recover from the operator all costs of water supply replacement in excess of funds received from forfeiture on bonds.

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